

BOARD OF ZONING APPEALS MEETING
AUGUST 21, 2012
7:00 P.M.

I CALL MEETING TO ORDER

The meeting was called to order at 7:00 p.m.

II ROLL CALL

Members Present: Carolyn Ghantous, Joe Ramirez, William Reichert,
Lawrence Hawkins III, Robert Weidlich and Jane Huber

Members Absent: Ed Knox

Others Present: Randy Campion, Building Inspector

III PLEDGE OF ALLEGIANCE

IV MINUTES OF THE REGULAR MEETING OF JULY 17, 2012

(Mrs. Huber made a motion to accept the July 17, 2012 Board of Zoning Appeals meeting minutes; Mrs. Ghantous seconded the motion and with a unanimous affirmative vote from the six Board of Zoning Appeals Members present, the minutes were approved as written.)

V CORRESPONDENCE

Chairman Weidlich: There is no correspondence this month.

VI REPORT ON COUNCIL

(Mr. Hawkins presented summary reports of the July 18th and August 15th, 2012 Springdale City Council meetings.)

VII REPORT ON PLANNING COMMISSION

(Mrs. Ghantous presented a summary report of the August 14th, 2012 Springdale Planning Commission meeting.)

VIII CHAIRMAN'S STATEMENT AND SWEARING IN OF APPLICANTS

IX OLD BUSINESS

(No Old Business presented at this meeting.)

X NEW BUSINESS

- A. Chairman Weidlich: The first item of business, the owner of 989 Ledro Street is requesting a variance for a rear yard setback of 16" from the rear lot line. Variance is from Section 153.580(D) "An entrance hood, deck or open but roofed porch may project...not more than 50% into a required rear yard."

Mr. Daniel O'Neill: I live at 989 Ledro Street with my wife Sharon; we have lived there since May of 1970. The rear patio cover that has been there in excess of forty-two years was there when we moved. It has been maintained and repaired over the years but it is now at a point and time where I don't feel it is desirable to carry on the repairs and maintaining and I wish to take the old roof off and replace it with almost an identical roof in the same place, the same size and same material. I understand that it requires a setback variance. Right now my patio encroaches to the property line within 16". It is pretty tight back there and I can't change anything without completely eliminating the patio altogether. So, I would like to ask for a variance for that setback requirement to allow me to replace the patio cover.

(Mr. Campion read the Staff comments.)

Chairman Weidlich: Is there anybody in the audience that would like to speak on this matter?

(No one from the audience came forward and this portion of the hearing was closed.)

Mrs. Huber: I move to grant a variance from Section 153.580(D) and 153.101(A) so as to allow an existing patio cover to be replaced with a same size new patio cover. The Sections of the Code state that the patio roof is not permitted to be closer than 17.5' from the rear lot line and not more than 50% into a required rear yard. Property is located at 989 Ledro Street.

Mr. Reichert: I second that.

Mr. Hawkins: I wanted to add, for the sake of discussion to add a couple things for the record. This is a corner lot and it was built prior to the Code and as it stands right now it is legal non-conforming. It is good policy, with the roof being in disrepair, to replace it and the applicant is taking that on, to fix it. It will be the same size as the current one that is there. It is a tight fit but there are some issues that the lot presents with it being a corner lot and a small rear yard.

Mrs. Huber: I just want to compliment any homeowner who is trying to preserve and make the neighborhood better.

(At this time Mrs. Huber polled the Board of Zoning Appeals Members present and with a unanimous vote, the request for a variance for a rear yard setback of 16" from the rear lot line at 989 Ledro Street was approved.)

- B. Chairman Weidlich: The next order of business is the owner of 1048 Ledro has submitted an application for variance to allow a garage conversion to remain. Said variance is from Section 153.105(B) "A single two-car garage and related parking area is required..."

Mr. Joseph Noppert: I am the general contractor for Hilton Capital and also a partner on this property. We purchase and renovate properties in this area. We have gone into this property and we didn't realize that the garage is partial storage and partial living space. We came to find out that the garage sectioning was done without permits and we are asking to use the garage as it is, as partial storage. We are not asking for a total elimination of the garage but we are asking that we can use the front portion of the garage as storage and the back portion of the garage as storage and as a laundry facility. Those houses are limited on closet space. In our predicament I think it should be o.k. because our driveway is a double-car driveway. With all of our construction vehicles and the dumpster taking up the entire driveway, we have never had a problem with finding a parking place there.

(At this time, Mr. Campion read the Staff comments.)

Chairman Weidlich: Is there anybody in the audience that would like to speak on this application?
(No one from the audience came forward and this portion of the public hearing was closed.)

Mrs. Huber: This company who oversees that property, were they aware that they needed to check with the Building Department before starting work?

Mr. Joseph Noppert: Yes. I came here right away and applied for permits on day one. We purchased this property out of foreclosure; it was the worst house on the block. There was nothing good about the house other than the slab. We have rebuilt this house from the ground up and we are over budget on everything because the house was in much worse shape than we had planned. It is my debut as general contractor with this company and as a partner I am trying to give them the best product that is going to sell right away and to be the nicest house on the block. At this point for us to build any kind of addition on the back would put us over budget and that is not going to be able to happen. I think without a laundry room facility in that house it will hamper the value; the storage is so limited in those houses. There is no place to put a washer and a dryer in those smaller slab homes.

Mr. Hawkins: Did you price out what it would cost for an addition?

Mr. Joseph Noppert: We didn't realize that we were not going to be able to use that for living space so all of our plans and figures were incorporating that square footage as mud room, laundry room and storage area. If we did have to put an addition on the back of the house it would be very hard to do because of the eaves. The eaves on the back of the house are so low that we would have to cut away the roof. We have a brand new roof and we would have to tear all the shingles off; it is not going to happen. The house would have to go without a laundry facility and that would kill the value of the property.

Mr. Hawkins: I appreciate the situation that you are in; we have several residents in that situation. We have other areas in the City also where folks have looked at eliminating garages, some without getting a variance and some have received a variance. The concern is the increased parking on the street and how far we are going away from the code; the code has two-car garage. I understand the plight that folks are having in terms of the limited space in those dwellings.

Mr. Joseph Noppert: That garage was never a two-car garage.

Mr. Hawkins: Right. When it was built, the requirement for the code was to have a one-car garage. Now, the code is requiring a two-car garage. So, if you were to tear a building down and build one up, there would then be a requirement for a two-car garage.

Mr. Joseph Noppert: We are asking for enough room for a mud room / laundry facility in the back. What we could do with the double-car driveway is move that wall back to incorporate a single-car garage; we didn't want to get rid of the garage in the first place. We could still keep a one-car garage there and do what we need to do.

Mr. Hawkins: Is it your intention to maintain an operable garage door there?

Mr. Joseph Noppert: Yes.

Mrs. Ghantous: Where was the plumbing for the washer when you bought this house?

Mr. Joseph Noppert: We are not sure. There was no copper in the house or wire; the walls were torn out.

Mrs. Ghantous: All those houses did have washer and dryer hookups.

Mr. Joseph Noppert: It wasn't in the garage.

Mrs. Ghantous: It wouldn't have been in the garage; it probably would have been in the kitchen.

Mr. Joseph Noppert: We do not know, because all of the plumbing was gone.

Mrs. Ghantous: And you are going to sell this house and not use it as a rental?

Mr. Joseph Noppert: Yes.

Mr. Reichert: You mentioned building a wall back to allow for a single-car garage; how many feet do you have from the back that you could use for the laundry room?

Mr. Joseph Noppert: I don't know what the plans show. We could make the garage as deep as 19'; all we really need is 6' in the back half of the garage. If we had a 6' room back there we could walk in from the dining room and have a washer and dryer and utility tub.

Mr. Reichert: I would be more favorable to vote for this if you did move the wall back.

Mr. Joseph Noppert: I agree; I would rather see it maintained with a single-car garage.

Mr. Reichert: If we could add that or make an amendment to move that wall back; how many more feet?

Mr. Joseph Noppert: Could we make it 18'?

Mr. Reichert: I would be more favorable to support this with the wall being moved back 18' from the garage door.

Mr. Hawkins: In speaking with Mr. Champion, it would appear that the garage is going to require 19' X 9'.

Mr. Champion: A typical parking lot space is 19' X 9'.

Mr. Hawkins: If you went back so that there is 19' in the front, then in theory you wouldn't need a variance.

Mr. Joseph Noppert: I am not sure we would have 19', with wall thickness to make code. That is why I asked for 18' to make sure with the wall thickness; I will try to make it 19'. What we need is 6' for the laundry room and whatever the wall thickness and the rest we will dedicate to open garage space; it should be at least 18'.

Mr. Hawkins: I would support 18'.

Mr. Reichert: A question for the Building Department; that 19' X 9', is that square footage or is that just the fact that 19' is the length?

Mr. Champion: When you stripe a parking lot, the standard size is 9' X 19'.

Mr. Reichert: 9' X 19' is 171 s.f.; it is 11' wide and if he went 18' X 11', he would have 198 s.f. which is larger than a 9' X 19' in square footage.

Mr. Champion: We probably would have to have a definition of what a single-car garage is; which I don't have with me. In lieu of that, maybe it is better to grant a variance. This is probably something that we should discuss because we have a lot of existing houses that are single car and if somebody had converted the living

space and they wanted to convert it back are we going make them have a two-car garage?

Chairman Weidlich: Since there is no further discussion, can we have a motion?

Mr. Reichert: I will make a motion to grant a variance to the property at 1048 Ledro Street from Section 153.058(B) requiring a two-car garage. I would like to set the stipulation that the wall between the garage door and the back part, be at least 18' X 11' and the operating garage door must be maintained.

(Mr. Hawkins seconded the motion and with 6 "aye" votes and 0 "no" votes, one Member absent, the variance was granted.)

- C. Chairman Weidlich: The owner of 11595 Princeton Pike has submitted an application to the Board of Zoning Appeals requesting eight variances; I think we need to look at these on a one by one basis: a) Front yard setback of 61.22' from Princeton Pike is from Section 153.493 "Automotive filling station buildings shall be located not less than 75' from the nearest street right of way line."

Mr. Pat Gilligan: I am the representative and President of Gilligan Oil Company; the owner of the subject property. I will start with a summary of the project. The existing property is a Shell station. It has ten fueling positions; an 800 s.f. convenient store and a 1,500 s.f. car wash and very limited landscaping; a 0' setback on the east property, which would be Princeton Pike, a total of 9.6% landscaping. The proposed facility razes all those structures and puts in ten fueling positions again, the same number, five pumps. We are putting roughly a 4000 s.f. building and it is going to house a convenient store and a Dunkin Donut drive through. We have started building, for the sake of its image and for requirements for cities like yours, a brick building with a limestone façade which this one has. The entire building is brick on all four sides, on the front feature where the GoCo and where the Dunkin is, those are limestone; the windowsills and the caps above them are limestone, as well. We are also proposing to brick the canopy columns. We did get up to 19.2% for landscaping; the Planning Commission gave us a target to try to get to 20% and we had a lot of discussion on it. We were very agreeable to get as much as we could and in general that became a balance between how much landscaping we could get and how much parking there was. We didn't originally have a parking variance; we now do have a parking variance because three spaces were eliminated. What we were able to do is diagonal the parking spots to the east and by making those diagonal results in the lane that you have to back out into was able to be narrowed substantially and all that was added to landscaping. Some landscaping we put in on the east property line, which is Princeton Pike and a couple feet got added to the west property line. A majority is on the property line that is exposed to the greater traffic and where really the Planning Commission wanted it to be; that is what we ended up with. This project is going to create the equivalent of about ten full-time jobs through the Dunkin Donuts; some full-time additions to the convenient store. We are spending approximately 1.4 million dollars on the project as designed, so there is going to be a substantial increase; some of that is equipment but a large chunk of it is building and land improvements. There will be a substantial revenue or tax base change. We are building the exact same building in Blue Ash, as well, it is under construction at the corner of Plainfield and Hunt.

I also wanted to walk through the variances for you: In general, the first setback was the building setback; this is a corner lot and so there is a 75' requirement on the east side which is Princeton Pike, a 75' requirement on the north side which is Kemper. So we have met the modifications everywhere except on the east property line where we were only able to get 62'. We are at 62' today at the existing building, I know that doesn't particularly matter but the current buildings and situation today which would stay if we are not able to do the project; the carwash building is within the setback, the east canopy is within a canopy setback. We have eliminated all those except the building where its position still has 62', not the 75' required on the east side. The second variance is the pavement setbacks and

those are a function of a couple things and I should note on the first one that it is a corner lot but we have been subject to a number of right of way takes which comes into play on "A", "B", and "C-green space", and "H-the parking spaces" and "F-the lot area". On the pavement setback, we did increase the west property line. It is currently 5' to 9', it moves back and forth; we are mostly 9' but we have 3' right where the canopy is to create the 24' isle width for maneuverability around the canopy and then it comes right back to the 9'. On the north there is currently only 2' and we have eliminated that island and there are currently vacuums in there and it is not very slightly. We are doing a design where we are able to get on top of the canopies, which is unusual but we are going to spend the money and get that fixed up and get a 5' buffer in there, so we have increased that front side. On the east we have 0' of setback today and we are going to 10.5' and 14'; so we are actually not needing a variance on that side. The south is currently 3' and we are going up to 9' on that piece. The green space I have already addressed; we are currently 9.6% and we did get it up to 19.2%, but we are still needing a variance to be below 25%. The pole sign, we are going to remove that, in terms of a variance we really only intended to get the existing square feet, there is something technically wrong with the way it is counted. We are going to install and there is already a variance in it for the existing, so we are going to modify that sign and come into compliance with the pole sign piece. "E"-the addition of the LED price sign was not approved at Planning Commission, there is a stipulation that this is not part of it so we will remove that request. The lot area, we are only off 2%, we have about 39,200 s.f. and 40,000 s.f. is required so we are a legal non-conforming today and obviously the use is desired by the community. It is the right location for it and always has been and really with the right of way take we have come under that 40,000 s.f. The canopy variance: when we go to install the canopies we just install them as permitted at 15'; that is just for safety and there is no purpose to it. The building is higher than that and I believe it is only 18' at its highest point. This is an accessory structure and it is maxed per your code at 16'. The 15' is just for safety for us so we don't have to repair our canopies. And then the fascia is the typical under 3' fascia that stands on top of it. This particular lot, maybe in terms of a reason for the variance in this case, this lot actually has an engineering piece that is a little different because the site grade is pretty substantial, so when we build the grade on these sites, the canopy or fueling area, which is under the canopy is flat. We do that so that the cars are safer so that they don't roll and they are able to fill their tanks properly and they are not on an incline. We are going to have to make grade, so we made grade getting up to it and it goes pretty flat and then we make grade up again to the front of the store. It is actually a condition where a truck will pull in and it is not going to be flat coming into it. Finally, on the parking spaces I spoke to that; we were at 38; we went from 8 to 5 on the east property on Princeton Pike, the spaces below the curb cut. So there are 5 diagonal where there were 8 straight; that changed to add the green space.

Chairman Weidlich: The item "D", you are withdrawing that for the pole sign?

Mr. Pat Gilligan: Yes, sir; and item "E".

Mr. Reichert: If all of your parking spaces are occupied, do you still have the availability to get one of your fueling tankers in there to dispense into your tanks?

Mr. Pat Gilligan: Yes, sir. I have a small print out and there is actually a designated path for the tanker truck to get through. They are going to stay on the north side of the property.

(At this time Mr. Campion read the Staff comments.)

(No members of the audience came forward to speak and the Chairman closed this public portion of the hearing for this particular variance request.)

Mr. Hawkins: To note for the record, this is a property with a unique situation with it being on a corner lot and also note that it is presented with some difficulties with

the City's easement in that front corner that would necessitate having a variance with regard to the setbacks.

Chairman Weidlich: If there are no more questions for the applicant, can we have a motion?

Mr. Reichert: I would like to make a motion for the property at 11595 Princeton Pike to grant a variance to Section 153.493, requiring a 75' setback, to allow 61.22' setback from Princeton Pike.

(The motion was seconded by Mrs. Ghantous and with 6 "aye" votes, one Member absent, the request was approved for item "A".)

Chairman Weidlich: We will move on to item "B". Pavement setback of 3.21' from the west property and 9' from the south property line and 5' from West Kemper right of way line from Section 153.502(C) "Setbacks... in no case however, shall the parking area or access drives be located closer than 10 feet from any right-of-way, 10 feet from any non-residential property line and 20 feet from any residential property line."

Mr. Pat Gilligan: I do not have anything further to add.

(At this time Mr. Campion read the Staff comments.)

(No members of the audience came forward to speak and the Chairman closed this public portion of the hearing for this particular variance request.)

Mr. Reichert: I would like to make a motion to accept the variance request (Item B) as proposed by the owner from Section 153.502(C).

(Mrs. Huber seconded the motion and with six "aye" votes, one Member absent, the request for variance item "B" was approved, as submitted.)

Chairman Weidlich: Moving on to item "C"; green space of 19.2% from Section 153.224 "Minimum green space shall be 25% of the lot area."

Mr. Pat Gilligan: No further comments on that.

(At this time Mr. Campion read the Staff comments concerning this request.)

(No members of the audience came forward to speak concerning this request and the Chairman closed this public portion of the hearing for requested variance item "C".)

Mr. Hawkins: I would like to note for the record that the applicant is battling between the issues of green space and providing enough parking. They have come up significantly from what they were.

Mr. Reichert: I would like to make a motion for a variance for item "C", to allow green space to be 19.2%. Variance is from Section 153.224 "Minimum green space shall be 25% of the lot area."

(Mrs. Ghantous seconded the motion.)

(With no further deliberation concerning item "C", Mrs. Huber polled the Board of Zoning Appeals Members and with 6 "aye" votes, one Member absent, the request for a variance to item "C" was approved.)

Chairman Weidlich: Since items "D" and "E" have been withdrawn, we will move on to item "F"; Lot area of 39,204 s.f. requested from Section 153.219(B) "There shall be a minimum lot area of 40,000 square feet...for automotive filling stations within this district."

Mr. Pat Gilligan: No further comments.

(At this time Mr. Campion read the Staff comments concerning item "F".)

(No members of the audience came forward to speak and the Chairman closed this public portion of the hearing for requested variance item "F".)

Chairman Weidlich: If there is no discussion on this item we will move to a motion.

Mr. Ramirez: I move to grant a variance for the property at 11595 Princeton Pike for item "F", lot area of 39,204 s.f.; variance is from Section 153.219(B) "There shall be a minimum lot area of 40,000 s.f....for automotive filling stations within this district."

(Mr. Hawkins seconded the motion and with 5 "aye" votes and 1 "no" vote from Mr. Reichert, one Member being absent, the request for variance on item "F" was granted.)

Chairman Weidlich: We will move on to item "G"; fuel pump canopy at 17'-9 1/2" in height requested from 153.223(B) "No accessory structure shall exceed 16 feet in height."

Mr. Pat Gilligan: No further comments on that item.

(At this time Mr. Campion read the Staff comments concerning item "G".)

(No members of the audience came forward to speak and the Chairman closed this public portion of the hearing for requested variance item "G".)

Mr. Hawkins: With regard to this matter, I would note for the record that the grade on the property is sloping and there is an impact with regard to trucks or tall vehicles that would come underneath that canopy where it would impact them if the variance was not granted.

Chairman Weidlich: What is the height of a fuel truck?

Mr. Pat Gilligan: Honestly, I don't know; I would be guessing but I would say maybe 12'. That is not the issue; it is usually delivery trucks with the higher backs, some landscaping trucks with buckets on them. There is just an array of types of customers; everybody drives on a gas station lot.

Chairman Weidlich: And you say the canopy is almost 3' from that 15' up?

Mr. Pat Gilligan: Yes; 2'-9 1/2", I believe.

Chairman Weidlich: O.K., could somebody make a motion?

Mr. Ramirez: I move to issue a variance for 11595 Princeton Pike to allow item "G", the fuel pump canopy to be at 17' - 9 1/2" in height, which is a variance from Section 153.223(B) to increase it from the Code of 15'.

(Mr. Reichert seconded the motion.)

(Mrs. Huber polled the Board of Zoning Appeals Members present and with a 6-0 vote the variance request for item "G" was approved.)

Chairman Weidlich: The last item we have is a total of 35 parking spaces requested from Section 153.504 "For the purposes of this Zoning Code, the following table outlines the minimum number of required spaces for each use."

(At this time Mr. Campion read the Staff comments concerning item "H".)

(No members of the audience came forward to speak and the Chairman closed this public portion of the hearing for requested variance item "H".)

Mr. Hawkins: Just for the sake of the record, again, the applicant has had to battle the requirements within the code regarding green space and that has had an impact with regard to the number of parking spaces that they are able to put on the site as it is currently constructed.

Chairman Weidlich: If no one has any discussion for the applicant, would somebody make a motion?

Mr. Hawkins: I move to grant a variance for the owner of 11595 Princeton Pike with regard to code Section 153.504, for the purposes of the zoning code outlining the minimum number of required parking spaces for each use. Based on the way the applicant's property is currently constructed it would require 38 parking spaces. I move to grant a variance to allow them to have 35 parking spaces as the applicant's property is currently constituted in terms on the green space and the building.

(Mrs. Ghantous seconded the motion.)

(Mrs. Huber polled the Board of Zoning Appeals Members and with 5 "aye" votes and 1 "no" vote from Mr. Reichert, the variance for item "H" was granted.)

XI DISCUSSION

Mrs. Huber: Getting back to our code, and it has many sections and as I remember we have a section about political signs being in the yard. We have had a political sign on West Kemper between Rose Lane and Madison for almost a month and a half. I said something to someone who should know something, and they said that now you can't enforce that.

Mr. Champion: I think there is a time limit and I don't know what it is.

Mrs. Huber: You are only allowed forty five days before the election. This has been almost two months, going on two and a half.

Mr. Champion: There is a time period where they have to be down by a certain time, and I will find out what it is.

Mrs. Huber: Well, if it is not going to be enforced, it should be removed from the code. I'm tired of looking at it.

XII ADJOURNMENT

Mr. Hawkins moved to adjourn, Mr. Reichert seconded the motion and the Board of Zoning Appeals meeting adjourned at 8:14 p.m.

Respectfully submitted,

_____, 2012 _____
Chairman Robert Weidlich

_____, 2012 _____
Secretary Jane Huber